REMARKS

In the Office Communications dated October 18, 2004, the Examiner allowed claims 11 to 14. Claims 5 to 8 were objected to but would be allowed if rewritten in independent form. Claims 11 to 14 are claims 5 to 8 rewritten. The Examiner continued the rejection of claims 1 to 4, 9 and 10. Old claims 1 and 2 have been combined and rewritten as new claim 15. Claims 3, 4, 9 and 10 are now dependent off of new claim 15.

The applicant has presented new claims 15 to 18. Claim 15 being essentially combined old claims 1 and 2 and now indicates that the harmful radiation of concern is from a man-made source. This is clearly supported by the specification in that numerous references are made therein to laser radiation used in medical treatments, for example. As noted on page 4, line 12, the source provides radiation "during laser or radiation application." Other instances note, "a radiation source", page 5, line 19; "during medical treatment" page 5, lines 19 to 20.

New claims 16 and 17 are directed at harmful radiation which is laser radiation from a high power source. This is supported by original claim 2.

New Claim 18 notes that the lens includes one or more coatings to filter or absorbers in said lens to attenuate the incoming radiation to safe levels. See page 6, lines 10 to 15.

It is respectfully requested that the Examiner reconsider his non-acceptance of claim 15, being old claims 1 and 2 combined, in light of the following remarks as to the rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).

The Examiner rejected claims 1 to 3 and 9-10 under 35 U.S.C. § 102(b) as being anticipated by Nielsen, US Patent 6,059,775; rejected claims 1 to 3 and 9 under 35 U.S.C. § 102(b) as being anticipated by Kanome et al., US Patent 5,059,018 or by Hoffman, US Patent 5,617,154. Claim 4 was also rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman in view of Rawlings et al, US Patent 5,120,121.

It is basic patent law that in order to anticipate a claim, the reference must describe all elements (limitations) of the claims and that a prior art reference does not anticipate a claim unless its disclosure is in such full, clear, and exact terms as to enable any person skilled in the art to which the invention relates to practice it. A mere suggestion in the reference is not enough.

Monsanto Co. v. Dawson Chemical Co., 165 USPQ 560 (1970) and In re Spada, 15 USPQ2d 1655 (Fed. Cir. 1990).

The Applicant believes that the Examiner is in error in this rejection of the claims in that the cited references are solely directed to optical surgery and/or esthetic contact lens of a conventional nature. These references do not describe all the elements of the claims and certainly does not enable a person skilled in the art to practice the claimed invention. The features shown and discussed in new claim 15 are relevant to the present invention as related below:

It is therefore asserted that these cited reference(s) clearly does not anticipate the invention for the reasons noted hereinabove. The features shown in the references do not function as in the present claim(s). Further this reference does not anticipate Claim 15, in particular, since this disclosure is not in such full, clear, and exact terms as to enable any person skilled in the art to which the invention relates to practice it.

The present invention is directed at contact lens for use in environments where there is a real danger from laser radiation or radiation from other high power optical sources. Claim 1 has been cancelled and now combined with claim 2 as new claim 15 to highlight the specific area of protection considered by the present invention. One of the key features of the invention is the use of an identification area, as to the type of protection afforded by the lens, on the contact lens so that a third party or the user, himself, can easily identify the type of protection offered by the contact lens being worn. This identification area must be clearly visible to a person standing and looking at the user of the contact lens and; therefore, the identification area must be positioned over the area of the eye having little or no color; this being called the sclera. Claim 15 notes that the "identification area is located outside an area of the iris." Cleary the iris and the pupil of the eye are considered colored. This is in contrast to the cited art where coloring or other means for identification, if such, is located on the central part of the contact lens. The prior art coloring and/or markings are directed at esthetic features for contact lens.

1. The Examiner rejected claims 1 to 2 and 9 to 10 under 35 U.S.C. 102(b) for the reasons noted on page 2 as being anticipated by Nielsen, US Patent 6,059,775.

The Nielsen reference is not related to a contact lens but involves the sculpting of a patient's eye at his lens surface for the correction of vision. See Abstract. Also, see Figure 1 where items 16, 19, 20, and 20 are noted as sculpted parts of the eye surface. The use of these items is clearly explained on Col. 3, lines 13 to 20. The laser energy is directed at the eye where a barrier or mask selectively blocks the laser energy which is directed at the eye surface. See Col. 3, 45 to 51. The barrier is not left on the eye surface after the completion of sculpting and as used during surgery is not a lens, whose normal meaning is a transparent material. There is no contact lens used in Nielsen and the only radiant energy is noted as laser energy for the operation. This is clearly different than the presently claimed invention and does not anticipate the claimed invention. There is no identification area on a contact lens as used on the eye to protect the user from laser radiation in a work environment. Further, there is no requirement to have any identification area on the mask. The mask is used to selectively protect the eye from laser radiation and this clearly does not remain on the eye after surgery. The mask allows selective areas of laser radiation to pass through for the purpose of sculpting the cornea while blocking radiation from other areas. One device, an adjustable iris type optical diaphragm, for this procedure is noted on Col. 3, line 63, to Col. 4, line 16. This is certainly not a contact lens as is conventionally understood for correcting the vision of the user. See AMA *Encyclopedia of Medicine*, Random House, p. 300, (1989). Nor is it a lens in the normal definition of said.

2. Claims 1 to 3 and 9 are rejected by the Examiner under 35 U.S.C. 102(b) as being anticipated by Kanome et al., US Patent 5,059,018 for the reasons noted on page 3 of the Office Communication.

Kanome et al further teach away from placing colored material over the sclera as stated on Co. 1, lines 37 to 39. Kanome et al. is not concerned with laser radiation or any other high power optical source and notes that the contact lens should include a material that protects the eye from UV light. See Col. 2, line 3. UV radiation from the sun is not considered to be harmful radiation within the scope of the invention, but directed light energy from a laser or other high power optical source is considered as harmful and certainly may result in immediate damage to the eye versus long term damage from incidental exposure to solar UV radiation, for example. Kanome

et al. places the coloring and/or marker area inside the colored area of the eye. Whether another person can see the coloring or marking while the contact lens is on the person is not important and further as noted on Col. 4, lines 53 to 55, "the white sclera portion is not covered with the colored area when used, and therefore, the contact lens cannot be easily found by another person." [emphasis added] This clearly notes that the colored area is placed over the colored portion of the eye as contrasted to the present invention where an identification area is placed beyond the iris for immediate visibility to a third person. The unique patterns placed in the "identification area" of the present invention are shown in the figures. The purpose of the Kanome et al. patent is to have coloration and/or marking on the contact lens over the colored area of the eye so that it can be easily used, it is esthetically designed, and found if it is removed or lost or for placement. See Col. 1, lines 35 to 39. Having a colored area beyond the iris is not esthetic since it is not a natural appearance especially with the described patterns shown in the figures are used.

Clearly, the present invention by having the identification area beyond the iris is not anticipated by Kanome et al. Kanome et al actually teaches just the opposite. It is further important to have a third party be able to identify the type of contact lens by the identification area since this may be a required safety check in an area exposed to laser radiation in a laboratory, for example.

3. The Examiner rejected claims 1 to 3 and 9 under 35 U.S.C. 102(b) as being anticipated by Hoffman, US Patent 5,617, 154.

Hoffman notes that the lens preferably filters out UV radiation, 200 to 500 nm. The light-absorbing area of the lens is noted as the tinted portion of the lens and that this portion should be at least as big as a dilated pupil. Hoffman notes that the tint may be uniform over the whole lens when using a rigid contact lens. Col. 5, lines 37. Hoffman further notes that the coloring of the contact lens is to provide protection from UV radiation as well as blue radiation which is related to macular degeneration. The use of tinted contact lens is noted on Col. 3, lines 30 to 35. Hoffman further shows a unique colored area near the iris for use when the user's eyes move from the central zone to prevent UV radiation, for example, for entering the pupil when it is off-

axis. Protection from laser radiation in a laboratory or a hospital is not noted. The use of tinting, other than light-absorbing and for esthetic reasons, is not used as a means for identification and this claim is merely the use of hindsight judgment. Hoffman does not show the use of an identification area such as disclosed in the Figures of the present invention as seen in Figures 1A to 1C, nor as claimed in claim 15. Hoffman does not show any such pattern nor any need for such a pattern of marking. The present invention is directed to laser safety contact lens made for protecting users from directed radiant energy from lasers or other high output sources in a laboratory/hospital setting, for example. The presence of the laser safety contact lens on the user must be immediately evident to others for the purpose of safety checks and thus the identification area must be clearly distinctive from conventional contact lens, as claimed.

4. The Examiner rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Hoffman in view of Rawlings et al., US Patent 5,120,121.

The comments in regards to Hoffman above are applicable herein. Hoffman does not note the use of any identification area on the contact lens for identify the contact lens as being applicable to any particular laser radiation. The use of contact lens for laser protection is not noted and the identification of such lens to a third party is not noted. Both of these requirements are critical to the present invention.

As noted in Rawlings, Col. 8, lines 9 to 11, the finish on the lens is "smooth and continuous." Rawlings et al. disclose a plastic cosmetic contact lens made with colored lines or patterns within the iris portion of the eye. See Abstract. Also, Col. 6, lines 60 to 68. The present invention notes in claim 4 an "altered surface texture" to aid in the process of making the identification area. The "altered surface texture" is not intended to be within the iris area in the present invention and would be appropriately placed on the portion of the contact lens over the sclera of the eyes so as to be clearly visible to other persons. The "altered surface texture" is related to the identification area of the laser safety contact lens and thus must be seen by other persons for safety checks. Markings or patterns for identification purpose are not shown by Rawlings et al. Rawlings' et al. patterns reside in the iris portion of the eye would be difficult to be seen and are merely cosmetic and within the colored iris area.

It is therefore respectfully asserted that this combination does not make obvious the claimed laser safety contact lens of the present invention. This combination is directed at contact lens of a conventional nature being concerned with cosmetic and esthetic issues with a user, not laser safety contact lens that are easily identified by other persons when on the user.

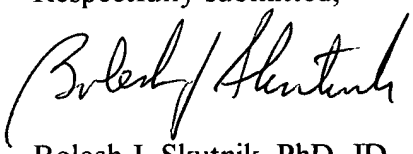
In summary, the invention is not new safety contact lens which merely protect from light sources such as lasers or other high power or coherent sources. It is providing lenses with specially coded markings which can visually tell the user or a third party that the user has the correct lens in place for eye protection from light wavelengths specific to that laser, or to any other high power source being used on that day and time for the indicated procedure. The mark, symbol or color must be clearly visible on the wearer [i.e. in use] and must correspond to providing protection over a specific set of wavelengths as given on some external list/memorandum.

It is respectfully requested that, in light of these clarifying remarks, the Examiner allow new claim 15 et seq. The Applicant requests such a notice of allowance; otherwise, claims 11 to 14 should receive a notice of allowance.

With these changes and remarks it is believed that the disclosure is now in condition for allowance. Reconsideration is respectfully requested. An early and favorable response is earnestly solicited. Thank you.

Respectfully submitted,

Dated: April 15, 2005



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